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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

REGINALD L. RAYFORD,

Defendant and Appellant.

B293703

Los Angeles County
Super. Ct. No. YA083080

APPEAL from an order of the Superior Court of Los Angeles County, Edmund Willcox Clarke, Judge. Affirmed.

Alex Coolman, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant Reginald L. Rayford appeals from the trial court's order denying his motion for resentencing filed nearly five years after we affirmed his convictions for one count of robbery and one count of attempted robbery. In his motion, defendant argued his sentence is unauthorized because the trial court imposed two firearm enhancements under Penal Code¹ section 12022.53, subdivision (b), one as to each count of which he was convicted. After appellate counsel filed a brief raising no issues on appeal and asking us to review the record independently under *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), defendant submitted a supplemental brief raising essentially the same arguments included in his motion for resentencing.

Having reviewed the entire record and defendant's supplemental brief, we have found no arguable appellate issues. We therefore affirm.

BACKGROUND

A detailed summary of the facts giving rise to defendant's convictions can be found in our prior opinion in this case. (*People v. Rayford* (Sept. 16, 2013, B244230) [nonpub. opn.] (*Rayford*).)² In short, defendant and an accomplice robbed at gunpoint the employee of a market in Gardena while a second employee was present.

In August 2012, a jury convicted defendant of one count of second degree robbery (§ 211) and one count of attempted second

¹ All undesignated statutory references are to the Penal Code.

² We grant defendant's January 22, 2019 request to take judicial notice of the record from his prior appeal.

degree robbery (§§ 211, 664). As to each count, the jury found defendant personally used a gun in the commission of the offense. (§ 12022.53, subd. (b).)

In September 2012, the court sentenced defendant to a total term of 19 years in state prison. On count 1, the court sentenced defendant to the upper term of five years for second degree robbery, plus a consecutive 10-year term for the gun enhancement under section 12022.53, subdivision (b). On count 2, the court sentenced defendant to a consecutive term of four years, consisting of one-third the mid-term for attempted second degree robbery, plus one-third of 10 years for the gun enhancement under section 12022.53, subdivision (b).

In his prior appeal, defendant argued: (1) the court erred in failing to instruct the jury sua sponte on the lesser included offense of attempted grand theft to attempted second degree robbery; and (2) the court failed to hold a hearing on his “implied” *Marsden*³ motion. Defendant did not raise any challenges to his sentence in that appeal. We affirmed defendant’s convictions in September 2013, and his convictions became final when remittitur issued on December 12, 2013.

On August 28, 2018, defendant filed a “Motion for Resentencing.” Defendant argued the court issued an unauthorized sentence in September 2012 when it imposed the 10-year gun enhancement under section 12022.53, subdivision (b) on count 1, and a consecutive term of one-third the 10-year gun enhancement on count 2. Defendant relied on subdivision (f) of section 12022.53, which states: “Only one additional term of imprisonment under this section shall be imposed per person for

³ *People v. Marsden* (1970) 2 Cal.3d 118.

each crime.” (§ 12022.53, subd. (f); *People v. Gonzalez* (2008) 43 Cal.4th 1118, 1125.)

The court interpreted defendant’s motion as a request for resentencing under Senate Bill No. 620 (2017–2018 Reg. Sess.) (S.B. 620), which amended section 12022.53, subdivision (h), to afford trial courts discretion to “strike or dismiss an enhancement otherwise required to be imposed by” the statute if doing so would be in the “interest of justice pursuant to Section 1385.” (§ 12022.53, subd. (h); see also *People v. Garcia* (2018) 28 Cal.App.5th 961, 972–973.) The court denied defendant’s motion, concluding defendant was not entitled to resentencing of his gun enhancements because his sentence became final before S.B. 620 went into effect.

Defendant filed a timely notice of appeal from the order denying his motion for resentencing.

DISCUSSION

Under section 12022.53, subdivision (f), a court may impose a gun enhancement for each separate, qualifying offense that the defendant committed. (See *People v. Palacios* (2007) 41 Cal.4th 720, 731–732 [the Legislature intended to limit the number of firearm enhancements imposed only “ ‘for each crime,’ ” not for each defendant, transaction, or occurrence, and not based on the number of qualifying injuries]; see also *People v. Wooten* (2013) 214 Cal.App.4th 121, 123 [section 654 “cannot bar punishment for the same enhancements attached to ... separate offenses”].) Additionally, a defendant is not entitled to a new sentencing hearing under S.B. 620 where, as here, the defendant’s sentence became final before the legislation went into effect. (*People v. Fuimaono* (2019) 32 Cal.App.5th 132, 135.)

We have examined the entire record, and are satisfied appellate counsel has fully complied with his responsibilities and no arguable issues exist in the appeal before us. (*Smith v. Robbins* (2000) 528 U.S. 259, 278–284; *Wende, supra*, 25 Cal.3d at p. 443.)

DISPOSITION

The order is affirmed.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

DHANIDINA, J.